

**IN THE UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF PENNSYLVANIA**

MYRON WARD,	)	Docket No. 04-11E
	)	(Judge Susan Paradise Baxter)
Plaintiff,)	
	)	ELECTRONICALLY FILED PLEADING
vs.)	
	)	AFFIDAVIT PURSUANT TO
JOHN LAMANNA, et al.,	)	FED.R.CIV.PRO. 56(f) IN OPPOSITION TO
	)	DEFENDANTS' MOTION FOR SUMMARY
Defendants	)	JUDGMENT
)	
	)	Filed on behalf of: Plaintiff Myron Ward
)	
	)	Counsel of record for this party:
	)	Richard A. Lanzillo, Esq.
	)	Knox McLaughlin Gornall
	)	& Sennett, P.C.
	)	120 West 10 th Street
	)	Erie, PA 16501
	)	Telephone (814) 459-2800
	)	Facsimile (814) 453-4530
	)	Email rlanzillo@kmgslaw.com
	)	PA53811

**AFFIDAVIT PURSUANT TO FED.R.CIV.P 56(f) IN OPPOSITION
TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

I, Richard A. Lanzillo, attorney for Myron Ward, hereby state the following pursuant to Fed.R.Civ.P. 56(f):

1. This action is presently pending before the Honorable Magistrate Judge Susan Paradise Baxter and involves claims arising out of injuries and constitutional violations sustained by Plaintiff while he was incarcerated at FCI McKean.

2. The pleadings remain open. Defendants have not filed an Answer to Plaintiff's Amended Complaint. Instead, Defendants have filed what they have styled as a Motion to Dismiss or, in the Alternative, for Summary Judgment (the "Motion").

3. Defendants' Motion makes a number of factual allegations with which Plaintiff disagrees.

4. Given the procedural posture of this case, Plaintiff has not had the opportunity to conduct any discovery to support his claims.

5. Plaintiff requires discovery to support his claims and refute the factual allegations made by Defendants in support of their Motion.

6. Among other subjects, Plaintiff requires discovery concerning the working conditions existing at the UNICOR facility at FCI McKean during the period of time that Plaintiff was assigned to work at the facility.

7. Plaintiff requires this discovery to be able to respond fully to Defendants' alternative request for summary judgment.

Respectfully submitted,

KNOX McLAUGHLIN GORNALL &
SENNETT, P.C.

BY: /s/ Richard A. Lanzillo, Esq.

Richard A. Lanzillo, Esquire
120 West Tenth Street
Erie, PA 16501
Telephone (814) 459-2800
Facsimile (814) 453-4530
Email rlanzillo@kmgslaw.com
PA53811

663815